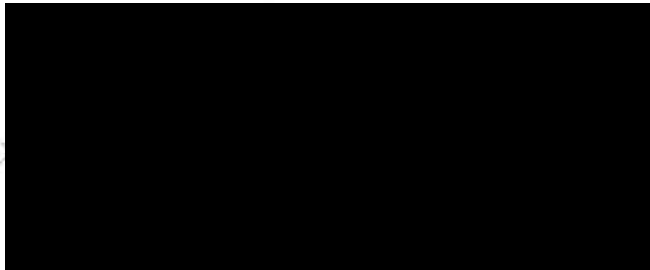


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Director, Legal Policy
Department of the Attorney-General and Justice
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29/01/2018

Re: Modernisation of the Anti-Discrimination Act: Responses to the Discussion Paper January 2018

To the Director, Legal Policy,

As a resident and home-owner in Darwin for the past five years, I would like to respond to some of the points in the discussion paper regarding modernizing the Anti-Discrimination Act. I am a practising Christian (and a member of a local church which could be affected by some of the proposed changes to this Act: [redacted] and I am also the [redacted] [redacted]

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[redacted] (one of the NT Christian Schools which will be affected by several of the proposed changes to this Act).

May I affirm the role of the Anti-Discrimination Commission, and the thought involved in modernizing the Act. The fact that we DO have such legislation, and the will and authority to support those laws, is an affirmation of our Australian society which values fairness, justice, equal access to services and protection of the most vulnerable and marginalized within our society. All legislation does need to remain in line with community values and expectations, whilst balancing that with due concern for the potential ramifications in the future of changes made in the present. There are a few of these concerns which I particularly wish to raise here, which may appear to be neutral or reflect the majority view but which may actually prove detrimental in the longer term. There are some troubling proposals when it comes to the Church and Christian ministries, groups and organisations where the freedoms of those groups to speak freely and to employ staff who adhere to a set of beliefs as a criterion for employment is potentially curtailed, and this will certainly have a detrimental effect on the Education sector in the Northern Territory.

Question 2: In nearly all cases, the biological identities of male and female are valid, whereas 'gender identity' can add many categories and confusion. Whilst this can and probably should be allowed for in the Act, "Sex" should still remain as well to allow for certain discriminations such as the use of toilets, sport activities and teams, or participation in activities which may be specifically run for males or females (e.g. female camp retreats, male relationship-building weekends or overnight hikes). If "Sex" remains for Question 2, this could then include "Intersex" for Question 3 where that applied.

Question 4: Regarding vilification provisions on the basis of religious belief, I am aware of the delicate balance needed around this issue in a multi-faith, post-Christian society (which must be noted, however, is post-CHRISTIAN, and therefore most of our basic legal, educational and moral framework does come from our basis in Christianity; this gives support to my view that it is relevant for all Australians to be exposed to a clear and non-confrontational explanation of the Christian faith and its significance in the forming of our Nation, even as a matter of Civics and Citizenship). All Australians wish to be granted the freedom of belief, opinion and expression. I believe that this can be done without recourse to expressing or promoting hate, "humiliation or intimidation". Any speech of this nature in support of any religion is quite rightly vilification and should be prohibited under the Act. However, the terms "reasonably likely to offend or insult" are of a much lower and subjective order, and could lead to frivolous claims, wasting of court time and financial and emotional strain on those required to defend their faith in a court of law. If these two terms must remain, then I must strongly support the insertion of words to protect statements of religious belief made as a critique (e.g. as a church sermon or in a Christian School or religious education class) such as "reasonably and in good faith". It is the nature of the gospel of Jesus Christ, as stated in the Bible, that it will divide people's opinions and allegiances, and whilst there is always room for robust debate, there will always be disagreement between faiths (and between faith and atheism, for that matter) which needs to be allowed respectful but robust debate.

Question 7: Regarding "lawful sex work", there are some questions which need to be clarified in terms of the rights of a Christian (and other) organisation to deny the use of its properties for activities which promote behaviour which run counter to its set of beliefs. For example, although the Church does not believe that people should be discriminated against for the work which they choose to pursue, it should not be an offence for a Christian church, charity, school or campsite to refuse the use of its property for a convention of sex workers, for example (e.g. currently under ss.40(2A) & (3)). It would also be necessary for a Christian school under NTCS to dismiss a leader (and probably any member of staff) for engaging in a sexual relationship outside of marriage: will this still be possible under a wider application of this section of the Act?

Question 10: Regarding a representative body: This idea sounds good in theory, to protect the minorities and the voiceless or the poor; nevertheless, it is not clear whether people can 'opt out' when they are approached by such a body wanting to include them in a test case, or what this 'body' could be. It could potentially be an opportunity for a powerful lobby group to seek out individuals in the NT to run a 'test case' in court which the individual had no intent to run, and it does not mention any requirement for reconciliation or arbitration beforehand. This is very vague.

Question 11: Regarding "Clubs" under the Act, will our church be considered a "club", with all of the implications which would go with this? What impact would this have for holding a liquor licence, the

ability to discriminate, to adhere to our doctrinal statement to become a member, to run gender-specific activities, etc? All churches in the Darwin area and the wider NT will have these questions to ask.

Question 14: The heading of this section is particularly offensive and misleading, and reflects a barely-hidden agenda. Religious exemptions exist in order to enshrine protections for religious belief and a human right is therefore not at all "content that enshrines discrimination" which needs removing. Without a charter of religious freedom, the only way such freedoms are given expression IS by exemption! Rarely do religious organisations want a 'licence to discriminate', but rather protection of their freedom/right to employ people on the basis of religious belief and practice, and also the freedom/right to take adverse action against an employee if issues of personal conduct are incompatible with the values of the organisation (currently under s.37A) Similarly, schools can limit admission of students by religious beliefs (s.30(2)) which generally does not mean that the family or student needs to actually be a Christian, but that they must support the teaching of a set of beliefs, and may not stand for a representative body such as a school council if they do not personally hold to those faith beliefs. These are not exemption 'privileges' for which an organisation must regularly apply, and if regular application must be made to the Commissioner, there need to be clear guidelines about when exemptions will be granted, in order for organizational and financial security to be maintained, otherwise the continuity of Christian education in the NT will be severely limited.

Question 15: It is my belief, though this may be increasingly a minority one, that the exclusion of assisted reproductive treatment should not be removed, and that the right for a service provider to make a conscientious objection by referring the applicants to another provider be allowed as an exemption. I believe that a child should have the right to be raised by both a mother and a father, preferably their biological parents, and there are many service providers who would concur with this belief. As a matter of belief, if not religious faith, I would support the right of exemption be maintained.

I eagerly await the publication (for further public comment) of a summary of the responses you have received, and a report after discussion by the Parliament, committee members, legal consultants and so on. I believe that this would be particularly important due to the nature of our one-House Parliament and the importance of this legislation. It would be appropriate to offer the opportunity to comment on some of the more-finalised points (if not to the general public, then at least to representatives from those bodies particularly affected by changes to the current legislation) before it proceeds to legislation stage.

Again, thank you for the job you do in ensuring the smooth functioning of the Northern Territory government for the well-being of all its citizens,

